

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CARL THOMAS STEWART, JR.,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 16-2374
	:	
v.	:	
	:	
JOHN E. WETZEL, et al.,	:	
	:	
Defendants.	:	

**MEMORANDUM OPINION**

Smith, J.

July 6, 2016

The *pro se* plaintiff, Carl Thomas Stewart, Jr., commenced this action against the defendants, John E. Wetzel, Supt. Robert Gilmore, Sgt. Miller, CO Eagle, CO E. Harn, and CO Briggs, by filing a complaint that the clerk of court docketed on May 12, 2016.<sup>1</sup> Doc. No. 1. The allegations in the complaint generally relate to the defendants' failure to permit him adequate use of a telephone even though he had a court order allowing him to contact witnesses in another civil action he was prosecuting in the United States District Court for the Middle District of Pennsylvania. *See* Compl. at ¶¶ 11-26. He asserts a cause of action under 42 U.S.C. § 1983 and seeks compensatory damages, punitive damages, and declaratory and injunctive relief. *Id.* at ¶¶ 28, 34-40.

The plaintiff did not file an application to proceed *in forma pauperis* or pay the filing fees to commence the action, so the court entered an order on May 26, 2016, which, *inter alia*, (1) provided the plaintiff with a period of 30 days from the date of the order to either (a) file an application for leave to proceed *in forma pauperis*, or (b) pay the \$400 in fees to commence the action, (2) required the clerk of court to send a blank form application to proceed *in forma*

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<sup>1</sup> The plaintiff is suing the defendants in their official and individual capacities.

*pauperis* to the plaintiff at his address of record, and (3) advised the plaintiff that if he did not submit a completed application to proceed *in forma pauperis* or pay the filing fee, the court would dismiss the action without prejudice and without notice to him. Order, Doc. No. 3.

To date, well over 30 days have passed and the plaintiff has neither submitted a completed application to proceed *in forma pauperis* nor paid the \$400 in filing fees to commence the case. Therefore, he has not complied with the court's May 26, 2016 order, and the court will dismiss this action without prejudice.

A separate order follows.

BY THE COURT:

/s/ Edward G. Smith  
EDWARD G. SMITH, J.